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No. 5] NEW DELHI, SATURDAY, MARCH 11, 2000/PHALGUNA 21, 1921

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके ।

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (iii) PART II—Section 3—Sub-section (iii)

केन्द्रीय अधिकारियों (संघ राज्य क्षेत्र प्रशासनों को छोड़कर) द्वारा जारी किये गये आदेश और अधिसूचनाएं
Orders and Notifications issued by Central Authorities (other than the Administrations of Union Territories)

भारत निर्वाचन आयोग

ELECTION COMMISSION OF INDIA

नई दिल्ली, 2 फरवरी, 2000

New Delhi, the 2nd February, 2000

आ.अ. 15.—निर्वाचन आयोग लोक सभा के लिए
5-मुम्बई दक्षिण केन्द्रीय संसदीय निर्वाचन क्षेत्र से श्री मोहन वी.
रावले के निर्वाचन को चुनौती देने वाली प्रिंसिपल सुहेल
लोखण्डवाला द्वारा दाखिल 1998 की निर्वाचन अर्जी सं. 1
में मुम्बई स्थित उच्च न्यायालय के तारीख 10 अगस्त, 1999
के निर्णय को लोक प्रतिनिधित्व अधिनियम, 1951 (1951
का 43) की धारा 106 के अनुसरण में इससे द्वारा प्रकाशित
करता है।

(निर्णय अंग्रेजी में छपा है)

[सं. 82/महा.—लो.स./1/98 (मुम्बई)]

आदेश से,

सी. आर. ब्रह्म, सचिव

O.N. 15.—In pursuance of Section 106 of the
Representation of the People Act, 1951, (43 of
1951), the Election Commission hereby publishes the
judgement dated 10th August, 1999 of the High
Court of judicature at Mumbai (original side) in
Election Petition No. 1 of 1998 filed by Principal
Suhail Lokhandwala challenging the election of Shri
Mohan V. Rawale to the Lok Sabha from 5-Mumbai
South Central Parliamentary Constituency.

IN THE HIGH COURT OF JUDICATURE AT
BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

Election Petition No. 1 of 1998

Principal Suhail Lokhandwala ... Petitioner

Versus

Shri Mohan V. Rawale and

Ors.

... Respondents

Mr. V. P. Sawant for petitioner

Mr. Vijay Nair i/b Zohair & Co. for respondent No. 1

CORAM : R. J. KOCHAR, J.

Date : August 10, 1999

P. C.

Heard the learned Counsel for both the parties. I have also gone through the Election Petition.

2. The petitioner has challenged the election of the respondent No. 1 who was declared elected on 3-3-1998 to the Lok Sabha in the election held on 28-2-1998. It is alleged by the petitioner, inter alia, that there were "gross irregularities, illegalities and deliberate sorting and counting" committed by the Returning Officer and that he had indulged in "improper reception of votes, improper refusal of votes and improper rejection of votes polled by the petitioner and improper reception of void votes in favour of the respondent No. 1." It is further complained by the petitioner that his application for recounting of valid votes was illegally rejected and that only invalid and rejected votes were recounted. He has, therefore, prayed as under :—

(a) that it be declared that the election of the 1st respondent to the Lok Sabha from 5-Mumbai South Central Constituency held on 28th February 1998 is null and void on the ground that the result of the election in so far as the respondent No. 1 is concerned has been materially affected under section 100(1)(d)(iii) and Section 100(1)(d)(iv) of the Representation of the People Act, 1951;

(b) that this Honourable Court be pleased to set aside the Order dated 3-3-1998 passed under Rule 63 of the Conduct of Election Rules by respondent No. 5 in so far it refuses to order a recount of all the valid votes polled at the said election, on the ground that the said order is illegal, improper;

(c) this Honourable Court be pleased to order an inspection and recount of all valid votes polled by all the candidates at the Election on 28-2-1998 of the 5-Mumbai South Central Lok Sabha Constituency as well as order recount of the rejected and invalid ballot paper at the said election;

(d) this Honourable Court be pleased to appoint any fit and proper person to act under the Supervision of this Honourable Court

as Court Commissioner to undertake an inspection and recount as per the rules, orders and instructions of all valid votes polled by all the candidates as well as a recount of all the rejected and invalid votes polled at the election held on 28th February 1998 in the 5-Mumbai South Central Parliamentary Constituency, and further direct him to forward a report of the votes actually polled by each candidate after conducting an inspection and recount;

(e) this Honourable Court upon finding that the petitioner has polled more votes than the respondent No. 1 be pleased to declare as void the election of respondent No. 1 under the provisions of Section 100(1)(d)(iii) and Section 100(1)(d)(iv) of the Representation of the People Act, 1951;

(f) this Honourable Court upon finding that the petitioner has polled more votes than the respondent No. 1 be pleased to declare the petitioner as elected to the Lok Sabha from the 5-Mumbai South Central constituency under the provisions of Section 101(a) of the Representation of the People Act, 1951;

(g) pending the hearing and final disposal of this Election Petition this Honourable Court be pleased to direct respondent No. 5 and the Chief Electoral Officer, Maharashtra, as also the Election Commission of India to preserve and protect all the ballot boxes, ballot papers, and all the forms and papers and video tapes connected with the counting of votes of the 5-Mumbai South Central Lok Sabha election done on 2-3-1998 and 3-3-1998;

(h) that the costs of the petition be provided for;

(i) such other and further reliefs be granted and orders and directions be issued as this honourable Court may deem, fit and proper.

Respondent No. 1 has filed his written statement. My learned predecessor (Datar, J) framed as many as 28 issues for trial of the petition.

3. During the pendency of the hearing of the petition, the Hon'ble The President of India was pleased to order dissolution of the Lok Sabha on 26th April, 1999. In view of this new development, Shri Vijay Kumar, the learned Advocate for the respondent No. 1 has submitted that the present petition has become infructuous and no reliefs prayed for by the petitioner can be granted and nothing survives in the petition. Shri Vijay Kumar pointed out that the challenge to the election of his client is only under section 100(1)(d)(iii) and Section 100(1)(d)(iv) of the Representation of the People Act, 1951 and that there is no other ground of challenge such as corrupt practices indulged in the election. Shri Vijay Kumar also relied on a decision of the Rajasthan High Court in support of his submission that on dissolution of the Lok Sabha the present petition has become infructuous in the facts of the case. The

ruling cited by the learned Counsel for the respondent No. 1 is reported in A.I.R. 1993 Rajasthan 130 in the case of N. Bhati and R. Bishnoi. The learned Judge has observed in para 13 as under :—

Para 13:—

“Keeping in view all these facts and circumstances of this case, this election petition has now become infructuous because no live issue survives for the decision of the Court. If there had been any allegations about corrupt practice or mala fides, then, of course, proceedings could have been continued as held by their Lordships of the Supreme Court in Jyoti Basu's case (A.I.R. 1982 SC 983).”

There is no dispute about any of the facts. It is also an admitted position that the election of the respondent No. 1 is not challenged on the grounds of cor-

rupt practices or mala fides and that grievance is only about recounting of valid votes and nothing more. In my opinion, therefore, in view of dissolution of the Lok Sabha on 26th April, 1999, nothing survives to decide the Election Petition and it has become infructuous. I am in respectful agreement with the view expressed by the learned Single Judge of the Rajasthan High Court (supra).

4. The election petition, therefore, is dismissed with no order as to costs. The petitioner is allowed to withdraw Rs. 2000 deposited by him onwards the costs.

SEAL

MRS. K. M. RANE, Associate
High Court, Bombay

[No. 82/MT-HP/1/98 (Mumbai)]

By Order,

C. R. BRAHMAM, Secy.

आदेश

नई दिल्ली, 7 मार्च, 2000

आ. अ. 16.—जबकि, भारत निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा-विनिर्दिष्ट पंजाब राज्य के सितम्बर, 1999 में हुए लोक सभा के साधारण निर्वाचन के लिए जो स्तम्भ (3) में तदनुसूची विनिर्दिष्ट निर्वाचन-क्षेत्र से हुआ है, के स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्वर्ती बनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथादर्शित अपने निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहा है ;

और जबकि, उक्त अभ्यर्थियों ने सम्बन्ध सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण अथवा स्पष्टीकरण नहीं दिया है या उनके द्वारा दिए गए अभ्यावेदनों पर, यदि कोई हो, पविचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है ;

अतः, अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य/संघ राज्य क्षेत्र की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए एतद्वारा निर्दिष्ट घोषित करता है ।

सारणी

क्रम सं०	निर्वाचन का विवरण	निर्वाचन क्षेत्र की क्रम सं० और नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम और पता	निर्दिष्टता का कारण
1	2	3	4	5
1.	पंजाब राज्य में लोक सभा के लिए साधारण निर्वाचन, 1999	2—अमृतसर	श्री अश्वनी कुमार, 1715, पत्नी भागा, गांव बेरका, तहसील व जिला अमृतसर (पंजाब) ।	निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल रहे ।
2.	—बट्टी—	3—तारन तारन	श्री बख्शीश सिंह, गांव अलगोन कलां, पो. अ. अलगोन कोठी, तह. पट्टी, जिला अमृतसर (पंजाब) ।	—बट्टी—

1	2	3	4	5
3.	पंजाब राज्य में लोक सभा के लिए साधारण निर्वाचन, 1999	5—फिल्लौर (अ. जा.)	श्री विजय कुमार हंस, 216-ए, रेलवे कालोनी नम्बर-3, जालन्धर सिटी (पंजाब) ।	निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल रहे ।
4.	—वही—	—वही—	श्री शिव कुमार, मोह. धरम कोट, होशियारपुर रोड, फगवाड़ा, जिला कपूरथला (पंजाब) ।	—वही—
5.	—वही—	6—होशियारपुर	श्री लारैस, सुपुत्र श्री जोग राज, गांव : आलोवाल, डा. बुलोवाल, तह. व जिला होशियारपुर (पंजाब) ।	—वही—
6.	—वही—	9—लुधियाना	श्री परमजीत सिंह, गांव व डा. पखोवाल, तह. रायकोट, जिला लुधियाना (पंजाब) ।	—वही—
7.	—वही—	11—भटिन्डा (अ. जा.)	श्री राधेश्याम, म. नं. 13256, गली नं. 3, सराभा नगर, भटिन्डा (पंजाब) ।	—वही—
8.	—वही—	12—फरीदकोट	श्री सुखदेव सिंह पांधी, दशमेश नगर, गली नं. 3, फरीदकोट (पंजाब) ।	—वही—
9.	—वही—	—वही—	श्री मुखपाल सिंह, गांव व पो. आ. —लाम्बी (पंजाब) ।	—वही—
10.	—वही—	—वही—	श्री जगमीत सिंह, ग्राम और पो. आ. धुमियार खेरा (पंजाब) ।	—वही—
11.	—वही—	—वही—	श्री परमजीत सिंह, डा. अम्बेडकर नगर, कामेग्राना गेट, फरीदकोट (पंजाब) ।	—वही—
12.	—वही—	—वही—	श्री राजिन्दर कुमार, डोंगर बस्ती गली नं. 3 (आर.), फरीदकोट (पंजाब) ।	—वही—
13.	—वही—	—वही—	श्री राजिन्दर कुमार शर्मा, डा. अर्जुन दास र हेवा, गली नं. 1, अदराश नगर, मालोट (पंजाब) ।	—वही—

[सं 76/पंजाब—लो.स./99(1)]

आदेश से,
के.आर. प्रसाद, सचिव

ORDER

New Delhi, the 7th March, 2000

O.N. —Whereas, the Election Commission of India is satisfied that the contesting candidates specified in column (4) of the Table below at the General election to the Lok Sabha held in September, 1999, in the State of Punjab, as specified in column (2) and held from constituency correspondingly specified in column (3) against their names have failed to lodge account of their election expenses, as shown in column (5) of the Table, as required by the Representation of the People Act, 1951, and the Rules made there under;

And whereas, the said candidates have either not furnished any reason or explanation for the said failure even after due notice or the Election Commission, after considering the representation made by them, if any, is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10-A of the said Act, the Election Commission hereby declares the person specified in column (4) of the Table below to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State/Union Territory for a period of three years from the date of this order.

TABLE

Sl. No.	Particulars of election	No. and Name of Constituency	Name and address of contesting candidate	Reason for disqualification
1	2	3	4	5
1.	General Election to the Lok Sabha held in 1999 in the State of Punjab	2-Amritsar	Shri Ashwani Kumar, 1715, Patti Bhara, Vill. Verka, Tehsil & District Amritsar (Punjab).	Failure to lodge any account of election expenses.
2.	-do-	3-Tarn Taran	Shri Bakhshish Singh, Vill. Algon Kalan, P.O. Algon Kothi, Teh. Patti, Distt. Amritsar (Punjab).	-do-
3.	-do-	5-Phillaur (SC)	Shri Vijay Kumar Hans, 216A, Railway Colony Number 3, Jalandhar City (Punjab).	-do-
4.	-do-	-do-	Shri Shiv Kumar, Mohalla Dharam Kot, Hoshiarpur Road, Phagwara, District Kapurthala (Punjab).	-do-
5.	-do-	6-Hoshiarpur	Shri Lawrence, S/o Shri Jeg Raj, Village: Allowal, P.O. Bullowal Tehsil & District Hoshiarpur (Punjab)	-do-
6.	-do-	9-Ludhiana	Shri Parmjit Singh, V. & P.O. Pakhowal, Teh. Raikot, Distt. Ludhiana (Punjab)	-do-
7.	-do-	11-Bhatinda (SC)	Shri Radhey Shyam, H.No. 13256, Gali No. 3, Sarabha Nagar, Bathinda (Punjab)	-do-

1	2	3	4	5
8.	General Election to the Lok Sabha held in 1999 in the State of Punjab	12-Faridkot	Shri Sukhdev Singh Pandhi, Dashmesh Nagar, Gali No. 3, Faridkot (Punjab).	Failure to ledge any account of election expenses.
9.	-do-	-do-	Shri Sukhpal Singh, Village & P.O. Lambi (Punjab).	-do-
10.	-do-	-do-	Shri Jagmeet Singh, V & P.O. Ghumiar Khera (Punjab).	-do-
11.	-do-	-do-	Shri Paramjit Singh, Dr. Ambedkar Nagar, Kameana Gate, Faridkot (Punjab).	-do-
12.	-do-	-do-	Shri Rajinder Kumar, Dogar Basti Gali No. 3 (R), Faridkot (Punjab)	-do-
13.	-do-	-do-	Shri Rajinder Kumar Sharma, Dr. Arjan Dass Raheja, Gali No. 1, Adresh Nagar, Malout (Punjab).	-do-

[No. 76/PB-HP/99 (1)]

By Order,
K.R. PRASAD, Secy.